



**Town of Arlington
Legal Department**

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To: Town Meeting Members

Cc: Arlington Select Board; Greg Christiana, Town Moderator; Juli Brazile, Town Clerk

From: Douglas W. Heim, Town Counsel; Michael Cunningham, Deputy Town Counsel

Date: April 21, 2022

Re: Corrected Vote and Comment re: Article 12

Members of Town Meeting, Members of the Select Board, Mr. Town Moderator and Madam Town Clerk, please find below a corrected vote and comment of the Arlington Select Board regarding Article 12 "Bylaw Amendment/Single Use Plastic Water Bottle Regulation." In brief, the vote as provided in the Select Board Report was inadvertently cut-off at Section 4, and thus did not include administrative sections providing for an effective date, exemptions for emergencies, and a severability clause, all of which were proposed and approved by the Select Board. Please accept my apologies for this oversight. For ease of review, the restored sections are highlighted in grayscale.

**ARTICLE 12 BYLAW AMENDMENT/SINGLE USE PLASTIC WATER
BOTTLE REGULATION**

VOTED: That Title VIII, Article 9 of the Town Bylaws ("Public Health and Safety") be and hereby is amended to add a new Article 10, "Single Use Plastic Water Bottle Regulation" as set forth below:

**TITLE VIII
ARTICLE 10
SINGLE USE PLASTIC WATER BOTTLE REGULATION
(ART 12, ATM – 04/25/22)**

SECTION 1. Purpose and Intent

The Town of Arlington (“Town”) recognizes that the use and disposal of single use plastic water bottles have significant negative impacts on the marine and land environment, and to public health, including but not limited to:

1. Contributing to the plastic pollution of the land environment, waterways and oceans;
2. Contributing to the harm and premature death of marine animals through ingestion of microplastics;
3. Posing a health risk to humans, including through ingestion of hormone disruptors such as phthalates that leach into plastic water bottles, inhalation of toxic emissions from burning plastic bottles in incinerators, and ingestion of microplastics in the food chain;
4. Exacerbating climate change through the use of millions of gallons of oil every year for the manufacture of single use water bottles in the U.S.

The purpose of this bylaw is to protect the environment and public health through reducing solid waste and unnecessary strains on recycling resources, minimizing litter, reducing the Town’s carbon footprint and climate change impacts, preserving local waterways, and protecting the health of Arlington residents and visitors by reducing the sale and disposal of single use plastic water bottles.

SECTION 2. Definitions

A. “Single use plastic water bottle”: Any single serving container, whether sold individually or in bulk, containing non-carbonated, unflavored drinking water with a volume of one liter or less, that is made in whole or in part of plastic material, excluding the cap, with any designated resin codes 1 through 6.

B. “Department”: The Arlington Department of Health and Human Services.

C. “Director”: The Director of the Arlington Department of Health and Human Services.

D. “Retail Establishment”: Any commercial enterprise, whether for or not for profit, including but not limited to the following: restaurants, pharmacies, convenience

stores, grocery stores, gas stations, liquor stores, seasonal and temporary businesses, retail stores, and any other businesses that sell single use plastic water bottles to the public.

SECTION 3. *Regulation of Single Use Plastic Water Bottles*

A. No retail establishment, as defined in Section 2, shall sell any single use plastic water bottle, as defined in Section 2. The sale of single use plastic water bottles is unlawful and any such sale is subject to the enforcement and penalties set forth in Section 4 of this Article.

B. No person shall sell single use plastic water bottles, as defined in Section 2, in any Town owned building.

SECTION 4. *Enforcement and Penalties*

A. Each retail establishment, as defined in Section 2, located in the Town, and every person using a Town owned building, shall comply with this bylaw.

1. If it is determined that a violation has occurred, the Director or their designee shall first issue a warning notice to the retail establishment for a first time violation.

2. If, after 14 days from receipt of the warning notice, the retail establishment continues to violate this bylaw or commits a second violation, the Director or their designee shall issue a notice of violation and shall impose a penalty against the retail establishment.

3. The penalty for each violation that occurs after the issuance of the warning notice shall be: no more than:

- (i) \$100 for the first offense;
- (ii) \$150 for the second offense;
- (iii) \$200 for the third and all subsequent offenses.

4. Retail establishments shall have 15 calendar days after the date that a notice of violation is issued to pay the penalty or request a hearing in writing to the Director.

B. The Director may promulgate additional guidelines and regulations necessary for the effective enforcement of this bylaw, consistent with the foregoing.

SECTION 5. *Exemptions for Emergencies*

Sales occurring subsequent to a declaration of an emergency adversely affecting the availability or quality or drinking water to Town residents by the Town's Emergency Management Director or other duly authorized Town, Commonwealth of Massachusetts,

or United States official shall be exempt from the bylaw until seven days after such declaration has expired.

SECTION 6. *Effective Date*

The provisions of this bylaw shall take effect on November 1, 2022.

SECTION 7. *Severability*

The provisions of this bylaw are severable. If any of provision or section is held to be invalid by the Attorney General, a court of competent jurisdiction or other reviewing authority, all other provisions and sections shall continue in full force and effect.

(5 – 0)

COMMENT: The Select Board unanimously supports this recommended addition to the Town's Public Health and Safety Bylaws brought forth by the Zero Waster Arlington Committee to prohibit the sale of single use plastic water bottles, as defined in the recommended amendment.

The Board expressed support for the concept of state wide legislation on this issue as a way to minimize any potential impact on small businesses. However, in light of the stalled efforts at the state level, the Board supports this local measure as a necessary means of protecting the environment and public health through reducing solid waste and unnecessary strains on recycling resources, minimizing litter, reducing the Town's carbon footprint and climate change impacts, preserving local waterways, and protecting the health of Arlington residents and visitors by reducing the sale and disposal of single use plastic water bottles.